

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2018 JOINT INTEGRATED)	
RESOURCE PLAN OF LOUISVILLE GAS AND)	CASE NO.
ELECTRIC COMPANY AND KENTUCKY)	2018-00348
UTILITIES COMPANY)	

ORDER

On October 29, 2019, and October 31, 2019,¹ Louisville Gas and Electric Company and Kentucky Utilities Company (jointly Joint Movants) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1), requesting that the Commission grant confidential protection for five years for certain information contained in responses to the following discovery requests:

1. Sierra Club's Initial Data Requests (Sierra Club's Initial Request), Items 23(a-d), 27(d), 28, 29(a), 31 and 32;²
2. Commission Staff's First Request for Information (Staff's First Request), Item 23;³
3. The Attorney General's Initial Data Request (Attorney General's Initial Request), Item 21(i);⁴ and
4. The Attorney General's Initial Request, Item 46.⁵

¹ A paper copy of the October 31, 2019 electronically filed motion for confidentiality was filed on November 1, 2019.

² These responses were the subject of Joint Movants' October 29, 2019 motion for confidentiality.

³ This response was the subject of Joint Movants' October 29, 2019 motion for confidentiality.

⁴ This response was the subject of Joint Movants' October 29, 2019 motion for confidentiality.

⁵ This response was the subject of Joint Movants' October 31, 2019 motion for confidentiality.

In support of their motion, Joint Movants state that the information contained in its responses to the Sierra Club's Initial Request, Items 23(a–d) and 28, consists of Ohio Valley Electric Corporation (OVEC) cost forecasts. Joint Movants also state that these forecasts relate to future energy, demand, and transmission charges, as well as operations and maintenance costs and capital costs. Also, the responses to the Sierra Club's Initial Request, Items 31 and 32, contain OVEC Board of Directors meeting minutes and presentations, which include commercially sensitive information relating to operating costs, cost estimates of environmental capital projects, and decision-making criteria and considerations concerning capital projects and energy market matters. With respect to the response to Sierra Club's Initial Request, Item 27(d), Joint Movants state that the response provides a table showing recent unit-level OVEC equivalent forced outage rates and that this data is made available to the Joint Movants under an agreement to maintain its confidentiality. Lastly, Joint Movants inform that the responses to the Sierra Club's Initial Request, Item 29(a), and to Staff's First Request, Item 23, contain OVEC projected outage costs and OVEC's and the Joint Movants' unit outage schedules and that public disclosure this information would place Joint Movants' at a competitive disadvantage in the wholesale power market.

Joint Movants additionally point out that its response to Staff's First Request, Item 23, also contains information about planned transmission expansion projects and upgrades filed under seal as part of its Integrated Resource Plan filing. Joint Movants note that this information includes critical infrastructure records and that public disclosure of this information would expose a vulnerability in the location, configuration, or security of critical electrical systems. Regarding the response to the Attorney General's Initial

Request, Item 21(i), Joint Movants assert that the response contains operating and maintenance cost estimates related to two pending enforcement actions by regulatory agencies. Joint Movants contend that the cost estimates are not publicly available and public disclosure of this information would prejudice Joint Movants in their negotiations with regulatory agencies seeking to resolve the pending enforcement actions.

Lastly, Joint Movants state that the response to the Attorney General's Initial Request, Item 46, contains the annual forecasts of total electricity production costs broken down into fixed and variable operating and maintenance costs. Joint Applicants note that forecasted production costs include the cost of fuel. Joint Applicants contend that public disclosure of this information could disadvantage the companies in negotiating contracts in the future and could also disadvantage the companies in the wholesale energy market because power production data is an important component of energy pricing.

Having considered the motion and the material at issue, the Commission finds that the designated materials are generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c)(1), and KRS 61.878(1)(m)(1)(f).

IT IS THEREFORE ORDERED that:

1. Joint Movants' October 29, 2019 and October 31, 2019 motions for confidential protection are granted.
2. The designated materials shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Joint Movants shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Joint Movants shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Joint Movants are unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Joint Movants to seek a remedy afforded by law.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "J. B. Pinner". The signature is written in a cursive style with a large, sweeping underline.

Acting General Counsel

Case No. 2018-00348

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